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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Amendment of Part 90 of the)
Commission's Rules Pertaining)
to End User and Mobile Licensing)
Information)

PR Docket No. 92-78
RM-7407
RM-7749

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To: The Commission

REPLY COMMENTS
OF THE
SPECIAL INDUSTRIAL RADIO SERVICE ASSOCIATION, INC.

The Special Industrial Radio Service Association, Inc. (SIRSA), pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission (Commission), hereby respectfully submits these Reply Comments regarding the comments that were submitted in response to the Notice of Proposed Rulemaking (Notice) that initiated the above-styled proceeding.^{1/}

I. PRELIMINARY STATEMENT

1. The Commission, in the Notice, proposed changes to the current application requirements for mobile radio authorizations to cover facilities to be shared by several

^{1/} Notice of Proposed Rule Making, FCC 92-171, PR Docket No. 92-78, 57 Fed. Reg. 20069 (May 1992) No. of Copies rec'd List ABCDE

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persons. Other proposed rule amendments affect the requirements governing applications to modify an authorization to increase or the decrease the number of operating mobile transmitters and the need to have those applications coordinated by frequency coordinators. The purpose of this rule making proceeding is to reduce the regulatory and administrative burden to FCC applicants and the Commission's licensing staff.

2. SIRSA, in its Comments, generally supported the Commission's proposals because they eliminate unnecessary administrative burdens in the licensing process. However, SIRSA urged the Commission not to eliminate the initial end user lists for applications seeking authority for non-profit cooperative systems to be operated on channels above 800 MHz. The Commission indicated that these lists, unlike other end user lists, were reviewed during the licensing process. Accordingly, SIRSA believed that submission of these lists should be retained.

3. Overall, like SIRSA, the other parties filing Comments in this matter also supported the Commission's proposals in this proceeding. However, SIRSA takes this opportunity to address certain elements of several of the

Comments that would impose additional unwarranted regulatory burdens on applicants and licensees.

II. REPLY COMMENTS

A. **Elimination of End User Lists Submitted to the Commission and Frequency Coordinators**

4. There is universal consensus among the commenters that the end user lists are cumbersome and unnecessary for processing and maintaining an accurate data base -- as the information submitted is highly volatile -- at both the Commission and frequency coordination levels. SIRSA concurs with this consensus, except for end user lists associated with the initial licensing of non-profit cooperatives in the 800/900 MHz bands.

5. On the other hand, GTE Mobilnet and Contel Cellular, in their Joint Comments, neither opposed or supported the elimination of end user lists, but sought to persuade the Commission to delay action in this proceeding. They argued that elimination of the licensing requirement for end users of Specialized Mobile Radio (SMR) systems as

currently proposed by the Commission^{2/} in conjunction with the elimination of end user lists would further blur the distinction between SMRs and common carriers. Accordingly, they requested the Commission not take action in this proceeding until it had addressed the impact of its decision on the private/common carrier issue.

6. SIRSA opposes this suggestion because the concerns of GTE Mobilnet and Contel Cellular are misplaced. Section 90.179 of the rules do not apply to SMR systems and, even if retained without modification, would not apply to SMR systems regardless of the Commission's action on the proposal to eliminate SMR end user licensing. Delay in action in this proceeding would be adverse to the public interest. The private/common carrier issue is one more properly addressed in another proceeding. Accordingly, SIRSA urges the Commission to take timely action in this proceeding.

^{2/} See Notice of Proposed Rule Making, Amendment of Part 90 of the Commission's Rules to Eliminate Separate Licensing of End Users of Specialized Mobile Radio Systems, adopted April 9, 1992, 57 Fed. Reg. 20070 (May 11, 1992).

**B. License Modification Requirements
for Paging-Only Systems and Non-
Paging Part 90 Licensees**

7. The commenters also give their universal support to the Commission's proposal to require paging-only licensees to modify their licenses only when their number of receivers increase or decrease 35% from the level authorized. An increase or decrease of less than 35% of the number of paging receivers does not impair the frequency coordinator's ability to coordinate paging frequencies. The proposal helps to reduce the regulatory burden on both licensees and the Commission.

8. On the other hand, the Commission's suggestion of measuring channel occupancy by transmission length is unacceptable in the private land mobile radio services. Many commenters agree that the Commission's intentions are good, but to promulgate a rule incorporating airtime studies is too complicated.^{3/} PacTel Paging's suggested procedures exemplifies just how complicated measuring usage by airtime can be.^{4/} SIRSA agrees with Paging Network, Inc. (PageNet)

^{3/} See Comments of PageNet at 13-15 and Celpage, Inc. at 9-11.

^{4/} See Comments of PacTel Paging, Inc. at 5-12.

that such procedure is unworkable and difficult to accomplish.^{5/}

9. Most commenters also support the Commission's proposal to require non-paging Part 90 licensees to modify their licenses only when their number of mobiles increases or decreases by 20% from the level authorized,^{6/} but continuing to require modification under the existing rule for licensees with systems in the 470-512 MHz band or licensees with conventional 800 MHz systems.^{7/} SIRSA and other frequency coordinators recognize that a majority of private land mobile applicants/licensees in the bands below 450 MHz usually overstate by 10-20% the number mobile transmitters that will operate on their systems to allow for future growth. Accordingly, the Commission's proposal should encourage applicants/licensees to accurately reflect the numbers of mobiles to be installed and operated on a system initially, with the assurance that future growth will

^{5/} See Comments of PageNet at 15.

^{6/} The Manufacturers Radio Frequency Advisory Committee, Inc. suggests that this benchmark be modified to provide that applications must be submitted when there is either an increase or decrease of more than 20% than authorized or 100 mobile units, whichever is less.

^{7/} See Comments of Associated Public-Safety Communications Officers (APCO) at 2, Utilities Communications Council (UTC) at 5 and Association of American Railroads (AAR) at 3.

not require additional application preparation and processing.

**C. Frequency Coordination
Requirements for Mobile Licensing**

10. As SIRSA and other frequency coordinators pointed out in their comments, one of the responsibilities of the frequency coordinator is to review applications for proper completion and accuracy. The applicant, even for applications that seek to modify only the mobile units authorized to a system, derives a benefit from the coordinator's review of its application. SIRSA believes that, should the applicant chose to employ this method to ensure application accuracy, the Commission should permit it.

11. On the other hand, several commenters indicated that the continued coordination of these applications was required for benefit of the coordinator. PageNet, among others, recommended that license modifications be handled on a notification basis, and copies of the notifications be served on the frequency coordinator.^{8/} We view this requirement merely as an additional administrative burden on

^{8/} See Comments of PageNet at 16.

the applicant without a corresponding benefit, and caution the Commission against establishing regulatory burdens similar to the ones that this proceeding was designed to eliminate.

12. UTC, in contrast, recommends that the applications be forwarded to the frequency coordinator first for a limited time period, and the frequency coordinators have the onus of forwarding the application to the Commission within two to five days.^{9/} While SIRSA appreciates UTC's suggestion, we can find no administrative difference between this suggestion and the current rules. UTC's suggestion is just as administratively burdensome as the current rules and, therefore, should be rejected by the Commission.

13. All commenters agree that the applicants/licensees with systems operating in the 470-512 MHz band and in the 800 MHz band on a non-exclusive, conventional basis must continue to obtain coordination. Such information, as the Commission maintains, is critical to recommending the most appropriate frequency. Accordingly, these existing rules must remain intact.

^{9/} See Comments of UTC at 6-7.

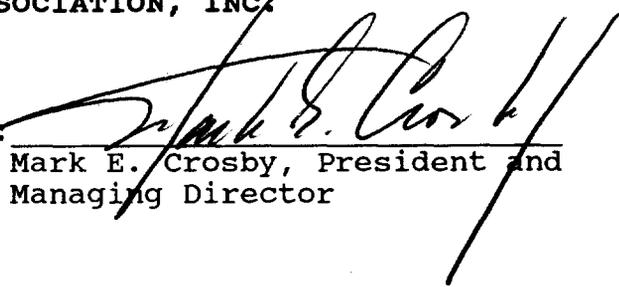
III. CONCLUSION

14. The focus of this proceeding should be to benefit the applicants/licenseses and the Commission by the elimination of superfluous paperwork. Accordingly, the Commission should dismiss as self-serving any recommendations that would continue to place undue administrative burdens on the applicant/licensee or the Commission without a corresponding benefit to either.

WHEREFORE, THE PREMISES CONSIDERED, the Special Industrial Radio Service Association, Inc. respectfully requests the Federal Communications Commission take expeditious action in this proceeding in a manner fully consistent with the views expressed herein.

Respectfully submitted,

**SPECIAL INDUSTRIAL RADIO SERVICE
ASSOCIATION, INC.**

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